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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,622

01/27/2004

Anthony Hermann van Zuilekom

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02/15/2006

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EXAMINER

NEUDER, WILLIAM P

ART UNIT

PAPER NUMBER

3672

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/765,622	<b>Applicant(s)</b> VAN ZUILEKOM ET AL.	
	<b>Examiner</b> William P. Neuder	<b>Art Unit</b> 3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-16, 19-25, 28-38 and 41-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 7, 10-14, 19, 20, 23, 25, 28-36 and 41-51 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 6, 15, 16, 21, 22, 24, 37 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,5,7,10,11,13,14,19,20,23,25,28,29,32,35,36,44,46,47,49 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Carroll 4951749.

Carroll discloses a seal pad 41 for sealing against a borehole wall. The seal pad includes a base plate (unnumbered, figure 2) to which the seal pad is mounted. The seal pad 41 is formed from an expandable material. Bolts (unnumbered, figure 2) extend through the base plate and act as a retainer to retain a portion of the expandable material that is expanded in a lateral plane of expansion of the expandable material. As to claims 2,14,20 and 36, the bolts are configured to retain the entire perimeter of the seal pad. As to claims 5 and 23, the bolts are integral with the base plate. As to claims 7 and 25, the bolts define a surface around the entire perimeter of the expandable material. As to claims 10,11,28,29,46,47,49 and 50, the expandable material can be a rubber elastomeric. As to claim 13, the method of sealing the seal pad comprises retaining the expansion of the expandable material in a lateral plane of expansion through the bolts. As to claim 19, the seal pad is used in a formation tester. Figure 2 shows the formation tester that includes an expandable tube 45, a cylinder having a flow path 601,701, a fluid collection chamber and a fluid transfer device. As to claims

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32 and 44, the tester is lowered on wireline 14. As to claim 35, the method of sampling comprises inserting the tool, expanding a test probe, retaining the expansion of the expandable material, collecting a formation sample, transferring the sample to a collection chamber.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12,30,48 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carroll (described above).

Carroll discloses all of the claimed features except for forming the expandable material from Teflon. Teflon is a known material used in seals, it would have been considered obvious to form the expandable material of Carroll from Teflon since Teflon is a known seal material and substitution of one known material for another is well within the skill of one of ordinary skill in the art.

Claims 33,34,42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carroll in view of Hill et al (applied in previous office action).

As to claims 33 and 42, Carroll does not teach that the tool can be lowered on a drill string. Hill teaches that his sampling tool (which is substantially identical in operation to Carroll) can be used after drilling (fig. 3) or while drilling (fig. 4). It would have been considered obvious to use the device of Carroll while drilling in view of Hill's teaching that sampling probes can be used both after and during drilling. As to claim 34, Hill also teaches that it is known to provide pumps to withdraw the sample. It would have been considered obvious to provide Carroll with a pump for removing the sample as taught by Hill since the use of a pump allows better control of the time required to take the sample. As to claim 43, the drilling must be stopped in order to take the sample in Hill.

Claims 31,41 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carroll in view of Fox et al (applied in previous office action).

Carroll does not provide a sensor. Fox teaches that it is known to provide sensors for sensing formation characteristics in a sampling tool. It would have been considered obvious to provide Carroll with a sensor as taught by Fox so that real time indications of formation characteristics may be ascertained. As to claim 45, Fox teaches transmitting the sensed signal to the surface by telemetry.

#### ***Allowable Subject Matter***

Claims 3,4,6,15,16,21,22,24,37 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-7,10-16,19-25,28-38 and 41-51 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

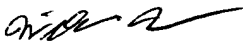
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Neuder whose telephone number is 571-272-7032. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William P Neuder  
Primary Examiner  
Art Unit 3672

W.P.N.